

## **REMARKS**

The Examiner rejected claim 1 as being anticipated by a Japanese patent application published August 19, 2003 under Publication No. 20032319A. (“the ‘319 reference”) Because the ‘319 reference is a foreign reference anticipation is governed by 35 *U.S.C.* sections 102(a), 102(b), and 102(e).

Section 102 (a) excludes from patentability an invention “that was known or used by other in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant. . . .” Applicant’s constructive invention is established by the November 15, 2002 filing of U.S. Provisional Patent Application No. 60/427,128, of which the current application claims benefit under 35 *U.S.C.* section 119(e). The disclosure provided in Provisional Application No. 60/427,128 satisfies the enablement and written description requirements of 35 *U.S.C.* section 112, first paragraph relative to the claims in the current application. (MPEP 706.02(b)). The ‘319 reference was not published until August 19, 2003, and therefore was not “patented or described in a printed publication in this or a foreign country” before Applicant’s constructive date of invention.

Similarly, August 19, 2003 is not “more than one year prior to” either of Applicant’s provisional or utility application filing date as required by section 102 (b). Section 102 (e) does not apply because the ‘319 reference was not described in an application for patent by another filed and in the United States, nor was it a U.S. patent granted on an application filed in the U.S. or an international application published under Article 21 (2) (a) in the English language.

In view of the foregoing, the '319 reference does not qualify as prior art that can serve as a basis for rejecting the claims in the current application. The rejection of Claim 1 should be withdrawn.

### **AMENDMENTS**

Claim 1 has been amended. Please enter new claims 2-20. These claims introduce no new matter. Support for the new claims is found, *inter alia*, in the following locations:

claim 2: page 5, lines 23-31;

claim 3: page 5, lines 23-31;

claim 4: page 3, line 27-30, page 6 lines 5-7 referring to figures 25 and 26, page 9, lines 26-32;

claim 5: page 10 lines 1-8;

claim 6 page 2 line 8, page 6 lines 1-4, referring to figures 5 and 8;

claim 7: page 3 lines 22-24 referring to figure 23, page 4, lines 4-6, referring to figure 30.

claim 8 page 2 line 7;

claim 9: page 5 lines 1-8 referring to figure 28;

claim 10: page 7 lines 9-13;

claim 11: page 8 lines 30-32, referring to figures 21 and 22;

claim 12: page 7 line 25 referring to figures 16 and 17;

claim 13: page 8 lines 13-21;

claim 14: page 8 lines 3-5;

claim 15: page 8 lines 5-8;

claim 16: page 8 lines 8-12;

claim 17: page 5, lines 23-31, page 6, lines 20-25 page 2, lines 9-11;

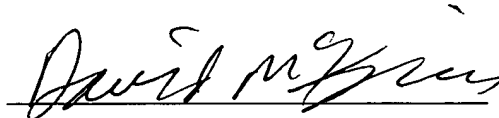
claim 18: page 2 lines 9-11;

claim 19: page 1 lines 21-24 and page 2 line 1-2; and

claim 20: page 2 lines 11-13, page 7, lines 25-28.

Should additional information be required, the Examiner is respectfully asked to notify Applicants of such need. If any impediments to the prompt allowance of the claims can be resolved by a telephone conversation, the Examiner is respectfully requested to contact the undersigned.

Respectfully submitted,

A handwritten signature in cursive script, reading "David J. McKenzie", is written over a horizontal line.

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